

CHAPTER 19
MUTUAL AND IDENTICAL REGULATIONS FOR BOATING ON
DELAVAN LAKE AND LAKE COMUS FOR THE CITY AND TOWN OF DELAVAN

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19.01 PURPOSE

- 1) The regulations set forth in this Chapter are adopted pursuant to Section 30.77(3)(a), Wisconsin Statutes, permitting cities, villages, and towns in the interest of public health, safety or welfare to adopt local regulations, which are consistent with Section 30, Wisconsin Statutes, and are applicable to the waters of Delavan Lake and Lake Comus, being within the state and located only in the jurisdictions of the City and Town of Delavan, such regulations including those relating to the equipment, use or operation of boats or any activity regulated by Wisconsin Statutes, 30.60 to 30.71, thereby requiring identical local regulations enacted by all towns, cities and villages having jurisdiction. These regulations hereinafter set forth are accordingly substantively identical for the Town and City.

Established April 17, 2002, Ordinance No. 229

19.02 INTENT

- 1) The intent of this chapter is to provide access to Delavan Lake and Lake Comus for all users and further provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public needs and the capacity of the water resource, recognizing the intensity of their recreational use. This chapter is deemed necessary in the interest of public health, safety and welfare.

Established April 17, 2002, Ordinance No. 229

19.03 APPLICABILITY AND ENFORCEMENT

- 1) The provisions of this chapter apply to the waters of Delavan Lake and Lake Comus and that portion of the inlet and outlet lying wholly within the City of Delavan and Town of Delavan, Walworth County, Wisconsin. The provisions of this chapter shall be enforced by the authorized law enforcement officers of the City of Delavan and Town of Delavan police departments, inclusive of the Water Safety Patrol.

Established April 17, 2002, Ordinance No. 229

19.04 STATE BOATING AND WATER SAFETY ADOPTED

- 1) The statutory provisions describing and defining regulations with respect to water traffic, boats, boating and related water activities in the following enumerated sections or

subsections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed for the punishment for violation of such statutes, together with any future amendments, modifications, revisions, additions or deletions of the Wisconsin Statutes incorporated herein, shall be incorporated herein and made a part of this Code in order to secure uniform regulations of lake use; are hereby adopted and by reference made a part of this section, as if fully set forth herein:

a	30.07	Transportation of aquatic plants and Animals and the placement of these objects in navigable waters
b	30.50	Definitions
c	30.501	Capacity plates on boats
d	30.51	Certificate of number and registration; requirements, exemptions
e	30.52	Certificate of number and registration; application; certification and registration period; fees issuance
f	30.523	Certification of registration card to be on board; display of stickers or decals and identification number
g	30.531	Certificate of title; requirements; exemptions
h	30.54	Lost, stolen or mutilated certificates
i	30.541	Transfers of boat titles
j	30.543	Report of stolen or abandoned boats.
k	30.544	Inspection of boats purchased out-of-state
l	30.549	Transfer of ownership of boats with a certificate of title, certificate of number or registration
m	30.55	Notice of abandonment or destruction of boat or change of address
n	30.60	Classification of motorboats
o	30.61	Lighting equipment
p	30.62	Other equipment
q	30.63	Sale and use of certain outboard motors restricted
r	30.64	Patrol boats
s	30.65	Traffic rules
t	30.66	Speed restrictions
u	30.67	Accidents and accident reports
v	30.675	Distress signal flag
w	30.68	Prohibited operation
x	30.681(1)	Intoxicated boating
y	30.862	Preliminary breath screening test
z	30.683	Implied consent
aa	30.684	Chemical tests
bb	30.686	Report arrest to department
cc	30.678	Officer's action after arrest for violating intoxicated boating law

dd	30.69	Water skiing
ee	30.70	Skin diving
ff	30.71	Boats equipped with toilets

Established April 17, 2002, Ordinance No. 229, Ordinance 304

19.05 DEFINITIONS

1) TRAFFIC LANE

(a) The traffic lane of Delavan Lake embraces the entire surface thereof, excepting therefrom those areas designated, "shore zone" or "swimming zone" as defined herein and identified on the map marked Exhibit "A" on file in the City Clerk's and Town Clerk's office, or areas defined as "slow no wake" by marker buoys registered and approved by the State of Wisconsin Department of Natural Resources and the Town of Delavan. No traffic lane is designated for Lake Comus. (See definition of "Shore Zone" as it pertains to Lake Comus.)

2) SHORE ZONE

(a) On Delavan Lake, the water area within two-hundred (200') feet of any shore. On Lake Comus, the shore zone shall be deemed to embrace the whole surface thereof.

3) SWIMMING AREA

(a) An authorized area within two-hundred (200') feet from shore marked by official buoys to designate a swimming area.

4) CHANNEL

(a) A waterway less than four-hundred (400') feet wide.

5) PUBLIC LANDING

(a) A marina or landing facility and the adjoining public shore line under the ownership or operation of the State, County, City or Town.

6) DESIGNATED ANCHORAGE

- (a) That area of water established and marked as an anchorage by lawful authority.

7) WATER SAFETY PATROL OFFICER

- (a) Any duly authorized law enforcement officer, including City and Town police officers and Walworth County sheriff's deputies.

8) PERSON

- (a) "Person" includes any individual, firm, partnership, corporation, company, association, or body politic, except the United States and the State of Wisconsin, and includes any agent, trustee, personal representative, receiver, assignee or other similar representative thereof.

9) SAILBOAT

- (a) Any watercraft propelled by sail which is designed and constructed to be used as a boat for transportation of a person or persons. When a sailboat is propelled by machinery instead of by sail, it shall be deemed to be a motorboat.

10) SLOW-NO-WAKE

- (a) That speed at which a boat moves as slowly as possible while still maintaining steerage control.

Established April 17, 2002, Ordinance No. 229

19.06 SPEED RESTRICTIONS

- 1) No person shall at any time operate a boat at a speed in excess of slow-no-wake within the shore zone, or within two-hundred (200') feet of any swimmer, marked swimming area, diving flag, canoe, rowboat, sailboat, non-operating motor boat, bridge, public landing, anchorage, or areas defined as slow-no-wake by marker buoys registered and approved by the State of Wisconsin Department of Natural Resources and the Town of Delavan.
- 2) No person shall operate a boat in excess of fifteen (15) miles per hour within the traffic lane between sunset and sunrise, except for water safety patrol or emergency water craft.
- 3) Notwithstanding other provisions to the contrary appearing herein or adopted by reference, on Lake Comus no person shall

operate a boat in excess of slow-no-wake except for emergency water craft.

- 4) No person shall operate a boat in excess of slow-no-wake in the west bay area of Lake Delavan as defined by "slow-no-wake" buoys placed in a line starting two-hundred (200') feet from the Chicago Club stairs to the lakeshore on the north shore of the lake to within two-hundred (200') feet of Blue Gill Road on the south shore of the lake. In addition, no person shall operate a boat in excess of slow-no-wake in the inlet of Lake Delavan, defined as that area north of the Highway 50 Bridge across Lake Delavan, and in the outlet of Lake Delavan, defined as the area west of the North Shore Bridge, on North Shore Drive of Lake Delavan.

Established April 17, 2002, Ordinance No. 229

19.07 OPERATION OF MOTOR VEHICLES ON ICE

- 1) No person shall operate an automobile, farm truck, motor bus, motor truck, truck tractor or any other motor vehicle with a shipping weight of more than one-thousand (1,000) pounds on the frozen waters of Delavan Lake or Lake Comus.
- 2) This section shall not apply to authorized emergency vehicles or other vehicles operating with the specific authorization of the City of Delavan Police Department or Town of Delavan Police Department.
- 3) The statutory definitions contained in Section 340.01, Wisconsin Statutes, are hereby adopted and by reference made a part of this section as if fully set forth herein.

Established April 17, 2002, Ordinance No. 229

19.08 CAPACITY

1) RESTRICTIONS

- (a) No person shall operate, own, rent or permit a boat to leave the place where it is customarily kept for operation on the waters covered by this chapter with passengers or cargo in excess of the capacity recommended by the manufacturer's rating.

2) HORSEPOWER CAPACITY

- (a) No person shall operate, loan, rent or permit a boat to leave the place where it is customarily kept for operation on the waters covered by this chapter, powered by a motor with horsepower in excess of the

capacity recommended by the manufacturer of said boat.

Established April 17, 2002, Ordinance No. 229

19.09 ADDITIONAL TRAFFIC RULE(S)

- 1) In addition to the traffic rules in Section 30.65, Wisconsin Statutes, the following rule shall apply to boats using the waters covered by this chapter:

- (a) **RIGHT OF WAY AT DOCKS, PIERS, AND WARFS**

- i. All boats leaving or departing from a pier, dock or wharf have the right-of-way over all other water craft approaching such dock, pier or wharf.

Established April 17, 2002, Ordinance No. 229

19.10 INTOXICATION AND INTOXICATING LIQUORS

- 1) **INTOXICATED PERSONS NOT TO RIDE IN BOATS**

- (a) In addition to Subsection 30.681(1) (a) Wisconsin Statutes, no person shall permit any person who is so intoxicated as to be unable to provide for his own safety or the safety of others to ride as a passenger in any boat operated by him.

Established April 17, 2002, Ordinance No. 229

19.11 SAFE OPERATION REQUIRED

- 1) No person shall operate, direct or handle a boat in such manner as to unreasonably annoy, unnecessarily frighten or endanger the occupants of his or other boats. In addition, no person shall operate, direct or handle a boat in a negligent manner or in any other manner that could endanger the life, property or person of another. Continued violations of this section by a minor could subject the parent, guardian, lesser or owner to arrest and persecution for contributing to the delinquency of a minor.

Established April 17, 2002, Ordinance No. 229

19.12 WATER SKIING

- 1) **IN ADDITION TO SECTION 30.69, WISCONSIN STATUTES, THE FOLLOWING OTHER RESTRICTIONS SHALL APPLY:**

- (a) Any boat engaged in starting, towing, dropping, or releasing a person on water skis, aquaplane or similar device must conform to all sections of this chapter, and in addition, must operate only in the traffic lane.
- (b) There shall be no more than two (2) lines per boat and no more than one person using each two (2) lines as a means of water skiing or similar sport. The persons being towed shall be equipped with a coast guard approved personal flotation device.

Established April 17, 2001, Ordinance No. 229

19.13 SWIMMING REGULATIONS

1) SWIMMING FROM BOATS PROHIBITED

- (a) No person shall swim, snorkel or skin (scuba) dive in the shore zone from any boat unless such boat is anchored and unless the swimmers, snorkelers and skin (scuba) divers stay within twenty-five (25') feet of the boat.

2) SWIMMING IN TRAFFIC LANE; DISTANCE SWIMMING

- (a) No person in Delavan Lake shall swim, snorkel or skin (scuba) dive in the traffic lane (more than two-hundred (200') feet from shore). No person in Delavan Lake or Lake Comus shall do any distance swimming, snorkeling or skin (scuba) diving unless the person is accompanied by a boat carrying a ring buoy and containing a competent observer. For this type of swimming, if there is more than one swimmer, snorkeler or skin (scuba) diver, each shall be accompanied by a boat.

Established April 17, 2002, Ordinance No. 229

19.14 POLLUTING AND LITTERING WATERS PROHIBITED

- 1) No person shall deposit, place, throw, allow or cause to be deposited, placed or throw from the shore, from any boat, raft, pier platform or similar structure any cans, paper, bottles, debris, refuse, garbage, solid or liquid waste into the water of the lake or on the ice of the lake.
- 2) No person shall discharge, cause, allow to be discharged any solid or liquid waste from his residence onto the grounds or

shore land so that waste could either artificially or naturally flow into the water of the lake or upon the ice of the lake.

Established April 17, 2002, Ordinance No. 229

19.15 OVERNIGHT MOORING PROHIBITED

- 1) The anchoring, drifting or mooring of boats on open water, upon which people are living, sleeping or camping is prohibited between 10:00 p.m. and 4:00 a.m.

Established April 17, 2002, Ordinance No. 229

19.16 BUOYS MARKING RACE COURSES

- 1) Such buoys may be set without lighting and no permit is required from the Water Safety Patrol. Such buoys shall be of a bright color and made of materials which will not damage a boat if struck. Authorization shall be obtained from the City of Delavan or the Town of Delavan for any buoy marking race courses between sunset and sunrise.

Established April 17, 2002, Ordinance No. 229

19.17 STATIONARY ARTIFICIAL STRUCTURES

1) DECLARATION OF PURPOSE

- (a) The purpose of this Section is to promote the public health, safety and welfare of all persons using the navigable waters of the Town. It is recognized that the indiscriminate location of stationary artificial structures within and upon such waters, without any municipal supervision or regulation thereof, constitutes a danger and hazard to the healthful and safe enjoyment of the rights of such waters.
- (b) This Section is not intended to interfere with the riparian rights of riparian owners.

2) PERMIT TO ESTABLISH STATIONARY ARTIFICIAL STRUCTURES NECESSARY

(a) REQUIRED

- i. No person shall establish by anchor, pilings, or other type of construction, an artificial stationary structure, raft, buoy or other contrivance used or designed as an aid to navigation on water, within or upon the navigable waters of the Town, without first obtaining a permit from the Town Board to erect such a structure. This section shall not apply to the construction or maintenance of a wharf or pier within the shore zone.

- ii. The section shall not apply to those structures regulated by the Public Service Commission under Section 30.12, Wisconsin Statutes.

(b) **APPLICATION**

- i. Application for such permit shall be made on forms furnished by the Town Clerk, and shall state the name of the applicant, the proposed location of the structure, its design and dimensions, including, but not limited to the height above and below the water line, lighting and reflection equipment to be installed, nature of anchorage to water bed, permanency of structure, purpose for which it will be used, together with such additional pertinent information as the Town Board may require.

(c) **REQUIREMENTS**

- i. Pursuant to Sections 30.13 and 30.772, Wisconsin Statutes, the Town of Delavan does hereby enact local regulations and restrictions upon the granting and issuance of permits for establishing artificial stationary structures in the navigable waters in Delavan Lake.

(d) **BOUYS**

- i. No permit for the placement of a mooring buoy in the navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:
 - 1. Only riparian property owners shall be permitted to place mooring buoys for use by said owner.
 - 2. For purposes of this ordinance the location of any mooring buoy shall include the distance from the center of the mooring buoy outward in any direction, in a radius of thirty (30) feet. Except as provided in section 2) (d) i. 7. e, placement of the mooring buoys shall be within the pier-head line established in

Section 19.18(2) of this Municipal Code and also be within the setback requirement of Section 19.18(3) of this Municipal Code. Further, no mooring buoy may extend beyond the riparian owner's pier.

3. The placement of any mooring buoy within the limitations set forth herein shall not be permitted if a pier, wharf, mooring, or other structure owned by someone other than the applicant exists within the area where the mooring buoy is to be placed.
4. No stationary mooring buoy may be placed within ninety feet (90') of a location ordinarily used as either a swimming area or boat launch or any other area that may interfere with navigation on any waterway.
5. This section applies to mooring buoys only and not to aids to navigation that require a permit from the Department of Natural Resources.
6. No mooring buoys may be placed under this ordinance more than two hundred (200') feet from the nearest ordinary high-water shoreline mark, unless a permit for same is obtained from the State of Wisconsin Department of Natural Resources.
7. No mooring buoy may be placed or used in any navigable waters if:
 - a. The mooring buoy obstructs or interferes with public rights or interest in the navigable waters.
 - b. The mooring buoy or use of the mooring buoy interferes with the rights of other riparian owners.
 - c. If the Wisconsin Department of Natural Resources determines that the mooring buoy or use of the mooring buoy adversely affects critical or significant fish or wildlife habitat.
 - d. The mooring buoy violates any other rules of the Department of Natural Resources or the placement or use of the mooring buoy violates a condition or restriction on a permit issued by the Wisconsin Department of Natural Resources.
 - e. The mooring buoy anchor is placed outside

of the pier-head line unless one of the following applies:

- i. A permit is obtained from the Town of Delavan and approved by the Department of Natural Resources.
- ii. A permit is obtained from the Department of Natural Resources.
- iii. The mooring buoy is properly within a designated mooring buoy area.

(e) **RAFTS**

- i. No permit for the placement of any raft in the navigable waters of Delavan Lake may be granted unless all of the following criteria are satisfied:
 1. Rafts may not be used to secure permanent attachments for boats or personal water craft.
 2. All rafts shall have a minimum of twenty-four (24) square inches of reflective material on each side that is plainly visible to boat traffic.
 3. Rafts shall have the permit number of the riparian owner affixed to said raft clearly visible for purposes of identification. Such numbers shall be a minimum of three inches in height in a color that contrasts with the color of the raft.
 4. All rafts shall be no more than one-hundred (100') feet from shore.
 5. All rafts shall have an elevation of at least twelve (12") inches above the water line at flat water.
 6. No raft may obstruct or interfere with public rights or the riparian rights of other property owners.

(f) **DETERMINATION BY TOWN BOARD**

- i. Within thirty (30) days after receipt of the application, the Town Board, or its designated agent, shall personally inspect the structure and area of its designated agent, for which a permit is requested, and shall make a determination as to whether the erection of the proposed structure will

be detrimental to the health, safety and welfare of the users of the navigable waters of the Town, or whether it will constitute an unreasonable obstruction or interference with the free navigation of such waters. The determination shall be made on the bases of the information contained in the application, and a personal inspection of the structure and its proposed location by the members of the Town Board, or its designated agent. The following considerations shall be included in those weighted by the Board in reaching its determination:

1. The proposed location of the structure;
2. The length of time it is to be established in such location;
3. Dimensions of the structure;
4. Composition and design of the structure;
5. Warning lights and reflector lights on the structure;
6. Heights above and depth below the water line at the proposed locations;
7. Use or uses to be made of the structure;
8. Existing uses made of the waters in which the structure is to be established;
9. Effect of structure on free navigation of such waters;
10. Effect of structure on health, safety and welfare of all users of such waters.
11. The Town Board shall thereupon grant or deny the permit in accordance with such determination.

(g) **ISSUANCE OF PERMITS**

- i. If satisfied that the proposed structure will not be a danger or hazard to the health and safe enjoyment, and the free navigation of the navigable waters of Delavan Lake by all users thereof, and upon payment of a permit fee of thirty (\$30.00) dollars, the Town Board shall issue a permit to establish such structure, signed by the Town Chairperson and the Town Clerk, which permit shall specify the conditions under which the structure may be established and used. Such permit may be revoked or suspended for cause, by the Town Board following hearing upon a written, verified complaint. Prior to revocation or

suspension of such permit, the Town Board shall serve upon the permittee at least 10 days prior to the date set for the hearing a written notice of hearing, containing the alleged reasons for the proposed action. These requirements shall be in addition to the requirements of the State, as presently enforced by the Town. All permits issued pursuant to this section shall be effective for 3 years from the date of issuance.

(h) **PENALTIES AND REMEDIES**

i. If any structure is established in violation of this chapter, the following remedies and penalties may be imposed:

1. After structure permit is issued, the Town may revoke the permit if the structure subsequently violates any provision of this chapter or state law.
2. A structure violating any provision of this chapter or state law shall constitute a public nuisance pursuant to Section 30.294, Wisconsin Statutes and is a violation of 10.01(1) of the Town of Delavan Municipal Code. Under this subsection, each day constitutes a separate offense.
3. If the unlawful structure is a raft, it may, additionally, or as an alternative remedy, to Subsection 2 of this Section, be removed by town officials pursuant to the procedures of Section 30.13 (5m), and chapter 823 Wisconsin Statutes. The raft cannot be removed under authority of section 10.08 of Town of Delavan municipal code unless the inspecting officer determines that the raft creates a great and immediate danger to the public.
4. If the unlawful structure is anything other than a raft, pier or wharf it may, additionally, or as an alternative remedy, to Subsection 2 of this Section, be removed by town officials pursuant to the authority and procedures of Section of section 10.08 of Town of Delavan municipal code.

(i) **RETROSPECTIVE OPERATION**

- i. Because this chapter is enacted under the power of the Town Board to enact regulations for the health, safety and welfare of its citizens, its terms shall operate retroactively upon existing structures that come within its scope, where the persons establishing such structures have no vested rights in them. No vested rights shall be considered to exist where the person establishing the structure was or should have been aware of the intention of the Town Board to regulate such establishments, prior to the expenditure by such person of substantial moneys in the establishment of such structure.

(j) **MOORING AND ANCHORING IN SWIMMING AREA**

- i. No person shall moor or anchor any boat, at any time, other than an emergency craft, in marked swimming areas.

(k) **PUBLIC LANDINGS**

- i. No person shall moor or anchor any boat at public beaches, parks or landings other than at piers as designated by the controlling government agency.

(l) **PROCEDURES**

- i. The procedures and provisions of Chapter 68, Wisconsin Statutes, shall apply to the grant, denial or revocation of a structure permit by the Town.

Established April 17, 2002, Ordinance No. 229, Ordinance 328-11.20.12

19.18 ESTABLISHMENT OF PIERHEAD LINE AND WHARF REGULATIONS

1) DEFINITIONS

- (a) The definitions as set forth in Section 30.01, Wisconsin Statutes, are hereby adopted and incorporated herein by reference, the same as if set forth at length herein. Any future amendments, revisions or modifications of the state statutes incorporated herein are intended to be made a part of this subsection. In this ordinance:

- i. **PIER** shall mean any structure extending in navigable waters from the shore with water on both

sides, built or maintained for the purpose of providing a berthing or mooring place for watercraft or for loading or unloading cargo or passengers onto or from watercraft including temporary boat hoists without roof or walls.

- ii. **WHARF** shall mean any structure extending in navigable waters along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berthing or mooring place for watercraft or for loading or unloading cargo or passengers onto or from watercraft.
- iii. **PIERHEAD LINE** shall mean as established in paragraph (2)(a) below, is a line established in the water of Delavan Lake adjacent to and roughly parallel to the shoreline for the purpose of creating uniformity in the length of piers extending from the shoreline into the waterway.

2) ESTABLISHMENT OF PIERHEAD LINE

- (a) Pursuant to Sections 30.13(3) and 30.11, Wisconsin Statutes, and in the interest of the preservation and protection of the public's rights in the waters of Delavan Lake, the Town of Delavan, within its respective boundaries, does hereby establish a pierhead line on Delavan Lake, which shall be at a distance of eighty (80') feet navigable water from the shoreline, except in areas where wetland extend 45 feet or more navigable water from the shoreline, in which case, the pierhead line is established at a distance of thirty-five (35') feet navigable water into open water from the navigable water edge of the wetland. The shoreline, for the purpose of this subsection, shall be at the elevation of ninety-four and three-quarters (94.75) (feet) WDNR datum (or 927.91 MSL), commonly referred to as the "summer level," which is thirty-six (36") inches below the brass bench mark (elevation 97.79 (feet) WDNR datum (or 930.95 MSL), located on the cement bank on the north side of the dam. The pierhead line shall run parallel to the shoreline. "Wetland" is defined as an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydro-phytic vegetation, has soils indicative of wet conditions, but is not open water.

(b) **INCORPORATION OF MAP**

- i. Pursuant to Section 30.11, Wisconsin Statutes, the map approved by the Wisconsin Department of Natural Resources, indicating the existing shore and pierhead line established in paragraph (2) (a) above, is incorporated here in and made a part of this section.

3) PIER PLANNER

- (a) All piers, accessories, and other near shore construction as referenced in the Pier Planner WZ-017 (3/96 revision) published by the WDNR are hereby incorporated herein by reference as guidelines that must be followed by waterfront property owners on Delavan Lake.

(b) **EXTENSION BEYOND PIERHEAD LINE; EXCEPTION**

- i. No wharf or pier shall extend beyond the Pierhead line which has been established under Paragraph (2) (a) above. A wharf or pier which extends into navigable waters beyond the pierhead line established under Subsection 2) (a) constitutes an unlawful obstruction of navigable waters unless authorization for the wharf or pier is granted, pursuant to Subsection 3) (c) of this Ordinance, or unless it is a permissible pre-existing wharf or pier that existed prior to the establishment of the pierhead line on November 15, 1998.

4) VARIANCE POWER

- (a) The Town of Delavan shall have the power to hear and grant requests for variances to the provisions of Subsection 2) (a), above, relating to the pierhead line. Such variances shall be so conditioned that the spirit and purpose of this Ordinance shall be observed and the public health, safety and welfare preserved and substantial justice done.

- i. No such variance shall be granted unless there are exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel in question that do not apply generally to other properties on Delavan Lake.

- ii. No such variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance.

(b) **VARIANCE PROCEDURES**

- i. Application for a variance shall be made to the Town of Delavan Plan Commission. Said application shall state, with reasonable specificity, the location of the property, ownership of the property, what type of variance is being sought, and the reasons of the applicant for seeking the variance. The applicant may request and the Plan Commission shall grant, if requested, a hearing on the proposed variance. The Plan Commission shall make a determination within ten (10) days from the date of hearing (exclusive of the date of hearing) on the variance, unless waived by the applicant. The Plan Commission shall, in writing, cause to be filed with the Town Clerk, its findings and reasons for the granting or denial of the variance.

(c) **APPEAL**

- i. Any person aggrieved by the determination of the Plan Commission may, within ten (10) days of the filing of the Plan Commission determination with the Town Clerk, file written notice of appeal with the Town Clerk. Said notice shall specify the reasons for appeal. Any notice of appeal not filed within the time specified herein shall be deemed to have been waived. The Town Board shall promptly review a properly filed appeal. Review of a Town Board determination shall be in accordance with Chapter 68, Wisconsin Statutes.

5) REMOVAL OF UNLAWFUL OBSTRUCTIONS

- (a) A wharf or pier that is an unlawful obstruction of navigable waters as set forth in Subsection (3) above is a public nuisance and is a violation of 10.01(1) of the Town of Delavan Municipal Code. The Town of Delavan may remove, or cause to be removed, the wharf or pier, or that portion of the wharf or pier that causes the unlawful obstruction as provided under section 30.13 (5m) and Chapter 823 Wisconsin Statutes.

The wharf or pier cannot be removed under authority of Chapter 10 of the Town of Delavan Municipal Code unless the inspecting officer determines that the wharf or pier creates a great and immediate danger to the public. Under this subsection each day constitutes a separate offense.

6) DILAPIDATED STRUCTURES IN NAVIGABLE WATERS PROHIBITED

- (a) Any wharf or pier in navigable waters which is declared so old, dilapidated or in need of repair that it is dangerous, unsafe or unfit for use, under Section 30.13 (5m) and Chapter 823 Wisconsin Statutes. The wharf or pier cannot be removed under authority of Chapter 10 of the Town of Delavan Municipal Code unless the inspecting officer determines that the wharf or pier creates a great and immediate danger to the public. Under this subsection each day constitutes a separate offense.

7) MARINAS AND LAGOONS

- (a) No marina or lagoon shall be constructed or expanded unless a permit for the same has been obtained from the Wisconsin Department of Natural Resources as provided by law. At the time an application is filed with the Department of Natural Resources, a copy of such application shall be filed with the Town of Delavan.

8) ADDRESS NUMBERS REQUIRED

- (a) The Town Board shall require the owners of all wharves and piers to install address numbers on those piers clearly visible for purposes of identification. Such numbers shall be a minimum of three (3") inches in height in a color that contrasts with the color of the pier. Subdivision and Associations shall have the name of the Association or Subdivision installed upon its pier in lieu of address numbers. Such lettering shall be a minimum of three (3") inches in height in a color that contrasts with the color of the pier. Subdivisions and Associations with multiple piers shall have the name of the Association of Subdivision installed upon its main pier or piers and shall assign and install individual numbers on the remaining piers.

Such lettering and numbering shall be a minimum of three (3") in height in a color that contrasts with the color of the piers.

9) PENALTIES

- (a) Any person who shall violate any of the provisions of any section of this ordinance, shall, upon conviction thereof, be subject to the penalties as set forth in Section 25.04 of the Municipal Ordinances of the Town of Delavan.

10) LAKE AND STREAM ACCESS

- (a) It is not intended by this ordinance to repeal, abrogate, or annul, provisions of Section 19.09(1) of this municipal code.

Established April 17, 2002, Ordinance No. 229; Revised February 18, 2003, Ordinance No. 240, Revised September 16, 2003, Resolution 11.2009

19.19 MOORING OR ANCHORING IN SWIMMING AREAS

- 1) No person shall moor or anchor any boat, at any time, other than an emergency craft, in marked swimming areas.

Established April 17, 2002, Ordinance No. 229

19.20 PUBLIC LANDINGS

- 1) No person shall moor or anchor any boat at public beaches, park or landings other than at piers as designated by the controlling government agency.

Established April 17, 2002, Ordinance No. 229

19.21 ENFORCEMENT

1) POWERS

- (a) An officer patrolling the waters may stop and board any boat for the purpose of enforcing Sections 30.50 to 30.80, Wisconsin Statutes, or any rules or ordinances enacted pursuant thereto, if he has reasonable cause to believe there is a violation of such sections, rules or ordinances, or if the stopping and boarding of any boat is essential to conduct a

search and rescue operation.

2) ARREST FOR VIOLATION

- (a) Any person violating any provision of this chapter shall be subject to arrest, whether at the time of arrest he is on the waterways or upon shore and any water patrol officer may pursue the offender ashore to enforce the terms hereof.

3) PROCEDURE ON ARREST

- (a) Whenever a person is arrested for violation of this chapter, the Water Safety Patrol officers may permit such person to make a money deposit. Such deposit shall be made to the Town, City of Delavan or to the Municipal Judge of the Town or City in an amount not to exceed the amount of the maximum forfeiture which may be imposed after the accused is found guilty, or other such amount as may be fixed by that particular Court in the setting up of a bail bond schedule.

4) FAILURE OF DEFENDANT TO APPEAR

- (a) If the person so arrested and released fails to appear personally or by an authorized attorney or agent before the Court at the time fixed for hearing, the money deposit by the accused, pursuant to the previous subsection, shall be retained and used for the payment of the forfeiture, which forfeiture may be imposed either with or without costs as determined by the Court after an ex parte hearing upon the accused. The excess, if any, shall be returned to the person who makes the deposit upon his making application for the same. If the accused is found not guilty, the entire amount of the deposit shall be refunded to the depositor upon his making application for the same.

Established April 17, 2002, Ordinance No. 229

19.22 MARKERS AND NAVIGATION AIDS: POSTING CHAPTER

1) DUTY OF CHIEF

- (a) The Chief of the Water Safety Patrol shall place and maintain or have placed and maintained suitable markers, navigation aids and signs in such water areas

as shall be appropriate to advise the public of the provisions of this chapter and post and maintain a copy of this chapter at all public access points within the jurisdiction of the Town.

2) STANDARD MARKERS

- (a) All markers placed by the Chief or any other person upon the waters of the lake shall comply with the regulations of the State Department of Natural Resources and/or any State statutory provision.

3) INTERFERENCE WITH MARKERS PROHIBITED

- (a) (Am. #86) No person shall, without authority, remove, damage, destroy, moor or attach any water craft to any buoy (except mooring buoys when authorized), beacon or marker placed in the waters of the lake by the authority of the United States, State, Village or Town or by any private person pursuant to the provisions of this chapter.

4) ENFORCEMENT POWERS

- (a) An officer patrolling the waters as a part of a water safety patrol unit may stop and board any boat for any rules or ordinances enacted pursuant thereto, if they have reasonable cause to believe there is a violation of such section, rules or ordinances.

Established April 17, 2002, Ordinance No. 229

19.23 PENALTIES

- 1) The penalties set forth in Section 25.04, Town of Delavan Municipal Code, are hereby incorporated by reference.

Established April 17, 2002, Ordinance No. 229

19.24 REPEAL OF CONFLICTING ORDINANCES

- 1) All ordinances regulating traffic, boats, boating or water sports upon the waters covered by this chapter and all ordinances or parts of ordinances in conflict with this chapter heretofore enacted are hereby repealed.
- 2) It is contemplated hereby, and the adoption of this ordinance is conditioned upon, the Common Council of the City of Delavan similarly adopting the foregoing regulations contained therein

as a part of its municipal code.

- 3) This ordinance shall be effective the day following the publication of the last to be published of the ordinance or its counterpart City of Delavan ordinance adopting the same regulations, both being published subsequent to their respective adoptions.

Established April 17, 2002, Ordinance No. 229